

Zemiology and the dark side of globalisation: the case of Naivasha's cut-flower industry

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Neo: A Journal of Student Research

March 2012

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Abstract

Kenya's cut-flower industry is primarily based along the shores of Lake Naivasha, a Ramsar Convention protected global wetland. This desk-based multi-disciplinary research identifies the extent of some of the avoidable social harms of this industry, highlights potential problems for Kenya's economy, and the implications for social justice. Kenya experiences water scarcity and, as a consequence of unsustainable industry practices, water is becoming 'blue gold' (Barlow and Clarke 2002). This has resulted in intertribal conflict, and food security is also an issue for Kenya's poor. Flowers are 90 per cent water, so Kenya is effectively involved in a 'virtual water trade' with the UK (Allan 2003). Water scarcity has obvious implications for human rights, both inter-generational and intra-generational, and for those of non-humans. The short-term economic gains of this industry are likely to have long-term consequences with wide-reach - in spatial, temporal and economic terms. Power appears to allow corporations to continue relatively unchallenged, yet if Kenya were to tighten its regulations, the industry could relocate. Considering these issues from the zemiological (social harm) perspective ensures that those harms which are either not designated crimes, or are ineffectively regulated or unregulated, are given the recognition and attention they warrant.

Key Terms

Corporations; cut flowers; social harm perspective; water; 'blue gold'; zemiology; justice; human rights; regulation

Introduction

A brief summary of the floriculture industry at Naivasha will initially be provided in order to set the scene for this paper. This will be followed by a discussion about the zemiological (social harm) approach, which serves to highlight the serious consequences of wider social harms which are neglected by criminal law, and criminology. Following this, corporate crime will be defined and compared with the wide reaching impacts of avoidable social harms. The aim of this research is to illustrate how one aspect of market liberalisation, Naivasha's cut-flower industry, is unsustainable, and the cause of avoidable harms which are socially unjust. There will be consideration of criminal law and the issues of agency and regulation, given the fact that it is difficult to attach blame to a given individual, and the requirement that there be *mens rea*, or a guilty mind (Hillyard and Tombs 2008). Neo-liberal globalisation and the unsustainable practices associated with free trade are linked to avoidable environmental problems and social issues. As Stiglitz (2006) asserts, globalisation benefits some, but that this is at the expense of many, as its rules favour the wealthy, at the cost of the poor. Considering avoidable harms from the zemiological perspective, should provide a more accurate picture of the most socially injurious behaviours whereas, the focus of conventional criminology is on those 'crimes' perpetrated by the 'usual suspects' (Tombs 2002). Zemiology allows criminologists to go beyond the overly simplistic concept of crime in order to tackle the issue of avoidable and sometimes catastrophic harms perpetrated by corporations, ensuring that these are made more visible, and accountability prioritised so as to advance social justice globally.

Naivasha: a 'jewel of biodiversity'

Located in the Great Rift Valley and considered a jewel of biodiversity, Lake Naivasha is designated a Ramsar Convention¹ protected global wetland (Agence France-Presse 2009; Council of Canadians 2008). Kenya's extensive flower belt lies along the shores of Lake Naivasha and scientists have made the grim prediction that the lake itself is likely to disappear completely within 15 years (Loukes 2008; Bendell

¹ This Convention is the only global intergovernmental treaty created to protect wetlands: designated a Wetland of International Importance, Lake Navaisha is meant to be used sustainably (improving water and food security) and thus protecting human rights and conserving its biological diversity (The Ramsar Convention on Wetlands 2011)

and Veuthey 2007). The floriculture industry is said to be responsible for harms including 'transgressors ... extract[ing] too much water from the lake, sprayi[ng] ... flowers with banned chemicals and pollut[ing] the lake' (Goldsmith 2001: 2). The lake's waters are being depleted to irrigate this thirsty crop, and each stem is said to require five litres of water (Nyambura 2003). Therefore, a life-saving resource, crucial for the protection of human rights, is being misused in the production of a luxury crop for the benefit of Western consumers, corporations and investors.

Kenya itself suffers from high unemployment and relative poverty, and so prioritises economic development. Kenya as a whole has a 25 per cent share of the global cut-flower market, but no real market locally as 95 per cent of its flowers are exported (Loukes 2008). Sixty five per cent of Kenya's cut-flowers are destined for Holland and 25 per cent go directly to the UK (Export Processing Zones Authority 2005), with 70 per cent being sold by supermarkets at a value of £2 billion per annum (Thomas 2009). Furthermore, as flowers are 90 per cent water, Kenya is effectively involved in a 'virtual water trade' (Allen 2003). This is risky given that globally we face a water scarce future, and the possibility of increasing conflicts over 'blue gold' (Barlow 2001). Corporate flower farms and peasant farmers are already competing for water, and yet only pay the same amount for their licences. In 2000, 0.5 billion of the 6 billion global population lived in countries experiencing chronic shortages of water (Clarke and King 2006). It is projected that by 2050, 4 billion of the estimated 8.9 billion global population will face chronic water shortages (Barlow and Clarke 2002; Clarke and King 2006: 23). Kenya itself currently experiences water scarcity (Millstone and Lang 2008) and for 39 per cent of Kenyans, and over half of the rural population, water is already a 'critical resource issue' (Loukes 2008). Unfortunately, less developed countries like Kenya do not have the infrastructure to deal with droughts. Therefore, substantially more people are at risk from this threat, than that of terrorism, illustrating the real and wide impact of avoidable corporate harms (Croall 2001; Box 1983).

Globalisation in its current form is unsustainable; as its affiliated inequities mean that profits benefit corporations and their shareholders, and harms impact most severely on less developed countries, and especially upon the poor (Coates 1991; Croall 2001). It is said that 25 per cent of cultivated land in less developed countries produces 'cash

crops' (Coates 1991) and this can be linked to environmental degradation and hunger (Nyambura 2003). Corporate flower farms in Naivasha impact on the lives of nomadic pastoralists and peasant farmers, this can have severe consequences for those vulnerable to hunger, and particularly the self-provisioning (*ibid.*). Food shortage may become an issue for 10 million East Africans, including Kenyans (Redfern 2011). Trade liberalisation has led to an increased reliance on imported basic foodstuffs, which seems ironic given that Naivasha's precious fertile land is producing non-edible luxury crops for export (Gitu 2004). This illustrates how social harms are endemic to market liberalisation and more damaging to society than conventional 'crimes'. Victims of the avoidable harms of corporations include local populations, future generations, ecosystem and the environment itself, and potentially there may be global consequences (White 2008).

The advantages of zemiology

Corporate crimes may result from organisational pressures to make profit or to remain competitive, or corporate policies may not allow compliance with regulations (Fisse and Braithwaite 1983). Strain theory or anomie asserts that executives are similar to conventional offenders in that they are 'ambitious, shrewd, and possessed of a non-demanding moral code' (Box 1983 cited in Pond 1999: 140). When legitimate means to profit-making are removed, some individuals are deviant, for example those deviant corporate flower farm employees who extract Lake Naivasha's water under cover of darkness (Nelken 1997; Vidal 2006). Differential association theory is where the 'realities of business' are learned, and businessmen commit crimes in pursuit of organisational goals (Sutherland undated in Pond 1999; Box 1983). Techniques may be learnt within or outside the corporation, for business competitiveness or personal success (Nelken 1997; Langan 1996; Coleman 2009). Some transgressors may be under pressure to succeed, and deviancy may be encouraged or ignored by management. 'Neutralisation techniques' may be used by subcultures, so rule breaking becomes normal business, and thus agents are socialised into the organisational way of life (Langan 1996; McLaughlin in McLaughlin and Muncie 2006; Box 1983).

Corporate crime refers to abuses carried out on behalf of a company, frequently by a powerful individual within a legitimate occupational role (Pond 1999). These

deviant acts can advance corporate, shareholder and personal interests. It is crucial to remain aware that these 'illegal acts or omissions, punishable by the state under administrative, civil or criminal law ... are the result of deliberate decision-making or culpable negligence within a legitimate formal organisation' (Tombs and White 2006 in McLaughlin and Muncie 2006: 74). Avoidable harms, perpetuated by (or on behalf of) powerful corporations, are not necessarily criminalised and are likely only to be 'policed' ineffectively by regulatory bodies which do not pose a deterrent to these deviants. Victimisation tends to be indirect, and the effects immeasurable, and this makes investigating these harms as crimes fraught with difficulties. Therefore, corporate crimes are less visible as they are not reflected in criminal statistics, they tend to be dealt with by regulatory bodies and through civil actions, and this 'mystifies' the crime problem (Box 1983). It is difficult to secure criminal prosecutions, corporate harms are not always even designated 'crimes' and, as 'non crimes', they are trivialised in newspaper reports which inevitably shapes public perceptions. Furthermore, these significant social problems have wide reach and zemiology has potential to highlight these issues. Corporate flower farms which cut corners to prioritise profit, are systematically ignoring social justice. Corporations may avoid complying with regulations because they do not wish to lose competitive advantage. This illustrates how 'white collar crime is more prevalent and has a greater cost to society than conventional crimes' (Clarke 1990 cited in Pond 1999: 138 original emphasis). Furthermore, corporate crimes tend to be socially defined as less harmful and this ambiguity tends not to generate the moral outrage. Zemiology goes beyond the concept of crime itself and acknowledge that some legal behaviour is socially injurious (Hillyard et al 2005). Therefore, social harm provides more 'ontological reality' than crime (*ibid.*) and zemiology could provide a useful tool to inform public opinion, increase accountability and globalise justice. Harm is a concept which includes criminal acts and non-criminal acts and is thus is a better tool for examining complex issues like social and environmental problems. The notion of agency demonstrates how problematic it is to attach blame to an organisation or its agents whether a crime or harmful non-criminal act has taken place. The issue of regulation also emerges as a concern, given that it is difficult to control powerful corporations which can be contrasted against the relative ease with which criminal

justice systems are able to control powerless individuals within their societies. These ideas will be considered in greater depth and related to Naivasha's cut-flower industry.

Harms

Harms may occur because of the indifference of agents to the outcomes of their actions or inactions (Box 1983). Whereas, acts of commission involve intent, acts of omission suggest indifference, but this contempt can result in avoidable harms. Therefore, as harms may result from acts of omission, there is a neglect or disregard for regulations. However, as the intention is not to cause harm, the deviant is not considered guilty according to the criminal law (Langan 1996). This raises the issue of justice as such acts of omission show disregard for victims, and the offenders may reap rewards individually, for the organisation itself and its shareholders (Langan 1996; Lee 2005). As Croall (2001) argues, perpetrators of these avoidable harms ought to be held accountable. Furthermore, where high ranking officers are aware of risks, or ought to be, they should be criminalised to prevent reckless harms (Beder 2002). However, there is a concern that scapegoating individuals could allow corporations to escape blame, avoid taking responsibility, and continue behaving deviantly (Edwards 2002).

Agrochemicals at Naivasha's flower farms harms the health of workers (Majtenyi 2002) and pollutes the lake (Pesticide Action Network 2011; Council of Canadians 2008). Some toxic agrochemicals may be illegal in Kenya but this is ineffectively regulated. Other agrochemicals are banned within the EU but permitted in Kenya, such as Methylbromide, yet its use is sanctioned for flowers imported from Naivasha (Nyambura 2003) as it is 'non-food' produce (Parliament 2007) and this situation should be redressed. Unfortunately, the application of agrochemicals is unwittingly encouraged as flower shipments can be rejected for any pest during phytosanitary inspections (Hornberger et al 2007) and supermarkets also demand 'aesthetic perfection' for their consumers.

An unintended pollution consequence of the presence of the cut flower industry is the issue of wastewater. There has been an influx of people seeking employment, which has further increased the pollution of the lake. In 1969, before the corporate flower farms descended upon the lakes' shores, Naivasha had a population of just 7,000. By 2007 Naivasha's population had expanded to some 300,000, placing an ecological

burden on the lake. The unsustainable influx of people seeking employment has adversely affected the quality of the lake's waters.

Agency

Agency is problematic as corporate deviancy 'appear[s] remote, difficult to perceive, complex and obscure' (Langan 1996: 229). In addition, there are indirect agents of harms including consumers, phytosanitary inspectors, supermarket importers, shareholders, and the Kenyan government which prioritises economic growth. However, this paper focuses on the direct agents of harm, the corporate flower farm management. It is difficult to allocate individual responsibility because the corporations are separate 'legal entities' and deviants can hide behind the 'corporate veil'. Criminal prosecutions require the identification of the 'controlling mind' to secure prosecutions, and complex organisations offer opportunities for dishonesty. Responsibility is distributed within the hierarchy, and blame cannot easily be attached to an identifiable individual; this is referred to as the 'web of deceit' (Sutherland, undated in Pond 1999). Where harm is detected, those involved can deny responsibility, either claiming they were obeying orders or, conversely, that their orders were ignored. Some agents are said to operate within a 'culture of denial' where business needs to be competitive, and this may encourage irresponsibility (Langan 1996). These factors make social harms more difficult to process as 'crimes' because of individualistic notions of 'intent', 'blame' and 'guilt' (Fisse and Braithwaite 1983). Critics argue that CEOs should be answerable for a corporation's conduct, but this only occurs where it can be determined that their thoughts and acts are their own, rather than those of the corporation. Intention is another issue; ambiguity surrounding intention is problematic in criminal law; this ambiguity results in corporate crimes being treated differently to conventional 'crimes' (Nelken 1997). Furthermore, given the concept of mens rea it is difficult to hold an individual within a corporation criminally responsible as there is no wrongdoer whose intention is to commit crime; this lack of intent means harms are not treated as crimes (White 2007; Langan 1996).

Kenya's government is criticised for the common malpractice of issuing domestic water permits to peasant farmers and corporate flower farms; this unregulated use of water is arguably linked to Lake Naivasha's dropping water level (Loukes 2008).

Unsustainable corporate irrigation practices include creating deep canals which also block wildlife and Masai livestock from reaching the lake's waters (Bridger 2009). Corruption is also an issue, executives are said to pay bribes to win contracts, avoid the reporting of transgressions, influence government and persuade the media not to publish damaging material (Bloomfield 2006; Dyck and Zingales 2002). European owned corporate flower farms avoid EU regulations, and take advantage of Kenya's lax regulations. Furthermore, corporations are difficult to regulate and, if the Kenyan government took a tougher stance, the cut-flower industry may opt to relocate to emerging markets like Ethiopia (Riungu 2009a).

Environmental issues are often undetectable to 'human senses' and often only become visible only once the damage is obvious, and then they are often reported as 'catastrophes' (White 2007; Fisse and Braithwaite 1983; Pearson 2010). 'The invisibility, lack of intent, diffuse victimisation and complexity of a ... pollution incident may be compared with the visibility, intent, direct victimisation and simplicity of a mugging' (Croall 2001: 10). The issue of visibility is important in corporate crime as unless deviant acts are detected, they cannot be reported, prevented and regulated, and the consequence is that this fails to provide an effective deterrent to corporate criminals (Barnard 1999; House of Commons 2005). Transgressions take place under cover of organisational routines and, because such employees are entitled to be there, this renders such acts less visible (Pond 1999). Therefore, corporate crimes are not as apparent as conventional 'crimes', arguably this occurs because elites mystify the harms perpetuated by corporations (Langan 1996; Box 1983).

Competing powers and regulation

Informal regulation treats harms as 'regulatory offences' but transgressors tend to get advance notice of inspections (Langan 1996). Informal social control can be effective, given that it can 'shame' and demand 'reform' rather than resorting to legal systems which infrequently bring corporations to justice (Fisse and Braithwaite 1983). It is said that 'internal corporate discipline operates largely as a private system of law' (*ibid*: 305). Self-regulation provides a quick response to problems; this is achieved through negotiation with experts, which makes compliance more likely and so regulation can be achieved through compliance, rather than punishment (Slapper and Tombs

1999). However, it is argued that decisions favour corporations, in this case flower farms, and there is little accountability (World Resources Institute undated).

Organisations like the Kenya Flower Council play a facilitative role in the regulation of corporate flower farms, by introducing a strict code of practice for members (Riungu 2009b; Hornberger et al 2007; Goldsmith 2001). Codes can be confusing to consumers but include protecting the environment; non-compliance of members is reported to the authorities (*ibid*; Omosa et al undated). The Kenya Flower Council awards export licences to corporate flower farms, but it is believed some European corporate flower farms access global markets through sister companies in their home country, thus avoiding regulation (*ibid*; *op cit*). The Kenya Flower Council has been pressurising government for legal authority to discipline 'wayward' farms (Daily Nation 2010; Export Processing Zone Authority 2005). Dutch auction houses and UK supermarkets prefer to trade with Kenya Flower Council members as it complies with their own consumer standards, but membership of this organisation can prove too expensive for smaller farms (Kenya Flower Council 2009a; Mitiambo 2008; Riungu 2009b).

Corporations are recognising that they must address public expectations through voluntary corporate disclosure (World Resources Institute undated). This is perceived to be virtuous and, is beneficial to corporations who prize their reputation, and another bonus is that it could provide incriminating evidence about deviancy (Fisse and Braithwaite 1983; Bartley and Child 2007). Voluntary environmental reporting is yet to realise its potential to make corporations accountable. Some question the legality of corporate social responsibility as corporations are obligated to maximise profits and increase the wealth of shareholders (Lee 2005). Voluntary reporting requires independent auditing but there is a tendency for reports to provide so much information that they are confusing. Voluntary reporting makes businesses more accountable and helps lift the 'corporate veil' (World Resources Institute undated). The UK government names and shames those corporations who do not produce environmental reports (Blunden 1995). Taxation could be imposed to ensure that companies pay for the full environmental costs of their operations and eco-balance sheets could tax corporate perpetrators of harms and reward the virtuous (*ibid*; White 2007). Corporate social

responsibility is gaining importance as environmental concerns are becoming more mainstream (Shah 2007). Businesses applying voluntary environmental management effectively green up their image and there is a growing realisation that environmental irresponsibility can affect profits (Slater 1996; Lee 2005).

According to the 2007 Responsible Competitiveness Index, the UK ranked fifth but, as UK corporations relocate to countries where regulations are lax and sanctions weak, less developed countries like Kenya effectively pollute on behalf of countries like the UK (Box 1983; Shah 2007). Governments and corporations put economic growth and profit before the environment (*op cit*). It is reported that corporate flower farms cut corners, avoid legislation and evade national regulations (Pearson 2010; World Resources Institute undated). However, Slater (1996) believes that national and international regulations pressurise corporations to minimise their environmental impact.

Activism reveals “the dark side of neoliberal globalisation” (Bartley and Child 2007: 9); campaigns, demonstrations and riots increase environmental awareness and this encourages consumers to buy ethically, and serves to shame corporate flower farms (Council of Canadians 2008; Black 2004; Mitiambo 2008; White 2007). This furthers democratic participation, and non-governmental organisations have held European campaigns to encourage consumer boycotts because of irresponsible irrigation methods, and this resulted in the Kenyan government giving corporate flower farms notice to fill in canals (*ibid*; Agence France-Presse 2009; Bridger 2009). Activism has therefore generated reforms, but it is unfortunate that consumer boycotts also punish virtuous farms (Ngige 2010). Activists can make corporations move beyond greening up their images to socially responsible behaviour (Opondo 2007). Activists have lobbied government to make businesses more accountable by urging both shareholders and corporate flower farms to be more responsible (Shah 2007). Activist journalists can also make use of the internet in promoting environmental awareness, and this can encourage remedial and reformative action. This achieves quicker responses than formal regulation as “morality often expects more of ... corporations than does the law” (Beder 2002b; Edwards and Cromwell 2006; Fisse and Braithwaite 1983;257). Some argue that a percentage of any fines ought to be given to activist groups as a subjective deterrent to corporations (*ibid*). Corporations claiming

'environmental responsibility' are more likely targets of activists and risk damaging their prized corporate image (Bartley and Child 2007) and there is an "intolerance of criticism and dissent, as well as a deep aversion to public scrutiny and accountability" (Klein 2002: 8). Corporations usually eliminate opposition by employing dirty tricks to counter criticism, from infiltrating activist groups to pressurising governments to treat activists like 'terrorists' (Klein 2002). In essence, 'corporate propaganda' is utilised by corporations to shield themselves from democracy (Beder 2002).

Consumer power is well recognised by industry and activists as a tool for gaining better environmental governance (Cawthorne and Kimball 2006; Black 2004; World Resources Institute 2003). Thomas (2009) states that consumers can make corporations behave more ethically. More ethical shopping rewards or punishes companies according to their 'corporate citizenship' and perceived 'social performance' (Hinkley 2002; World Resources Institute 2003). Labelling with easily identifiable 'eco-labels' has empowered eco-conscious consumers to make informed purchases so that they can reward good practice (White 2008; Department of Trade and Industry 2004; World Resources Institute 2003). Eco-labelling initiatives can be government programs or privately sponsored (World Resources Institute 2003). A global survey in 1999 found that 20 per cent of respondents rewarded or punished companies according to perceptions of their social performance (World Resources Institute undated). It is reported that eco-labelling has reduced the extent of agrochemical use on flower farms in some less developed countries (World Resources Institute 2003). The Fairtrade Labelling Organisation has set standards that are industry-specific and this includes environmental sustainability (Hiscox 2007). In 2002 the Fairtrade logo was recognised by only 20 per cent of the UK population, but by 2008 this rose to 70 per cent and associated sales amounted to £33.4 million (Fairtrade 2010). Consumers pay a premium for what the logo stands for. It is said that as well as encouraging good farming, 8 per cent of the export price of Fairtrade goods goes into community projects (Hiscox 2007; Vidal 2006). Many informed consumers are willing to pay more for Fairtrade products (World Resources Institute undated; Beder 2002b). Critics argue that Fairtrade is used by corporations, including supermarkets, who gain financially and gain a green image, but this and other initiatives have not protected Lake Naivasha (Measure

and Bloomfield 2008; Loukes 2008). There is a concern that there are too many eco-labels and this could cause 'label fatigue' (Hiscox 2007). However, the public's recognition of labels like Fairtrade, is a form of regulation of the market. Fairtrade improves corporate profits and is an effective market mechanism for protecting the environment (Jones 2004; Hiscox 2007). Eco-labelling can enable consumers to determine the country of origin of flowers on sale – as flowers from 'Holland' may in fact be Kenyan grown (Jones 2004; Loukes 2008; Beder 2002b; World Resources Institute undated; Pearson 2010).

Courts can punish corporations with adverse publicity orders; this involves a loss of prestige by focusing on the corporation's risk-taking behaviour and tarnishes their image (Fisse and Braithwaite 1983). A significant majority of people believe that corporate social responsibility is crucial to business success (World Resources Institute undated). However, it is said that some companies merely pay lip service to environmental concerns by greenwashing (Slater 1996). Activists have a role to play in this process by highlighting greenwashing, but shame is said to prove more of a deterrent when administered by peers (Black 2004; Barnard 1999). It can be argued that corporate harms result from acts on behalf of shareholders, as it is the duty of corporations to make profits for them (Lee 2005; Hillyard et al 2005; Coleman 2009). Corporations are regulated both by stock markets and shareholders at AGMs (Langan 1996). Stock markets make corporations responsive to the wishes of shareholders, thus persuading corporations to behave more responsibly (Lee 2005; World Resources Institute undated). Shareholders have influence over corporations, as they can opt to invest ethically, or withdraw investments (World Resources Institute undated).

Derisory fines do not reflect the extent of environmental harm or the cost of making good the damage, if this is achievable furthermore, this does not create a culture where compliance is taken seriously (House of Commons 2005; Croall 2001). Fines should be realistic, yet not threaten jobs (Croall 1992 in Pond 1999). However, critics like Bromley (2000) question whether it is possible to give the environment a monetary value. Transgressors should be made 'accountable' as effective detection, prosecution and punishment are deterrents (White 2007). In the UK, serious environmental transgressions can result in senior members of companies being

punished under the 'lifestyle provisions' aspect of the Proceeds of Crime Act 2002, and this is proving a deterrent (House of Commons 2005).

Where corporate compliance fails to prevent avoidable corporate harms, 'corporate mens rea' could be applied; furthermore, prosecutions would communicate the seriousness of corporate harms (Clarkson 1998). There is said to be ambivalence surrounding the issue of CC, and condemnation by courts is often considered 'unlucky' (Lukacs 2005; Langan 1996). Although surveys indicate that the majority of people in the world believe governments should prioritise environmental protection over economic growth, this is not happening because of corporate resistance (Beder 2002). In essence, corporations 'Deny there is a problem ... ; Delay effective action; and Dominate ... negotiations about any possible solution' (Rowell 2002a: 21 original emphasis). Corporate power allows the avoidance and resistance of labelling, and results in minimal government intervention (Export Processing Zones Authority 2005) and it influence policymaking, particularly in developing economies like Kenya (Blowers and Glasbergen 1995). Companies are also said to block plans to manage conservation (Council of Canadians 2008: 4). Langan (1996) suggests that 'imprisonment' could be effected by nationalising a corporation for the allocated period of its sentence. However, if too many corporations were labelled 'criminal', the shaming aspect of such labels would be diminished (*ibid*).

Justice is an issue where corporate harms are concerned. Injustice occurs where the rights of humans, future generations and other life forms are at stake (Bromley 2000; White 2008). A significant number of people are said to want the environment prioritised above the economy. However, democracy fails, when governments fail to take action (Beder 2002). Where activists challenge corporations, corporate dirty tricks can render activist agendas ineffective (Beder 2002). The wide-reaching harms of corporations tend to be ignored, but corporations should be held accountable, and this highlights the criminogenic nature of capitalism (Croall 2001). Justice is more likely to be achieved via zemiology, but there is still a need to account for human agency (Hillyard et al 2005). Social justice is achievable if farming were to become sustainable, especially if Kenya also produced crops for its national market (Pearson 2010; Loukes 2008).

Conclusion

Unsustainable practices globally will have global consequences in the fullness of time. It would appear that power effectively 'sanctifies' the harms of corporations who continue unchallenged (White 2008) whereas the comparatively trivial crimes of the 'usual suspects' (Tombs 2002) are punished severely (Box 1983). Corporate harms tend to be represented as 'accidents', and so there tends not to be moral outrage associated with conventional crimes (Langan 1996; Muncie 1996). Furthermore, there is no certainty in environmental regulation, and no acknowledgement of the extent of environmental harms, either spatially or temporally (Reiner 2007). Corporations causing avoidable environmental harms should be seen as guilty (Box 1983) but the focus needs to shift away from individual responsibility and 'reputational penalties' exploited in order to provide justice (Dyck and Zingales 2002). Corporate penalties need to be enforced and increased in order for deterrence to be effective (Coleman 2009). Neo-liberal globalisation has left corporations difficult to control, and the externalities of the free market impact more severely on the marginalised, particularly within less developed countries. We need to actively challenge corporate harms in order to achieve social justice. Powerful corporations are able to relocate to where regulations are lax, labour is cheap, and circumstances most lucrative. Therefore, market liberalisation has proved criminogenic and, indeed, zemiogenic. Corporations depend on us to 'work diligently' and 'consume relentlessly' (Edwards and Cromwell 2006). The Kenyan cut-flower industry illustrates how the 'unsustainability of affluence impinges on the unsustainability of poverty' (Terhal 1992 cited in Blowers and Glasbergen 1995:167) and the demand for the luxury of cut-flowers in the developed world is clearly having adverse environmental and social consequences in Naivasha. Our unsustainable hedonistic Western lifestyles and concomitant insatiable demands for luxury products are leading to water becoming 'blue gold' - and this is just one of the hidden costs of the Naivasha's cut-flower industry.

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